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In re:

JAMES W. WALLACE, JR.,

Debtor.

NO. 04-08560-JAR11

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW ON
CONFIRMATION OF DEBTOR'S
SIXTH AMENDED CHAPTER 11 PLAN
OF REORGANIZATON**

THIS MATTER having come on for telephonic hearing on February 12, 2008, before the above-entitled Court for confirmation of Debtor's Sixth Amended Chapter 11 Plan of Reorganization, as further amended at confirmation, with Debtor and Debtor's attorney, Patrick J. Morrissey, appearing, creditor FH Partners, LP, appearing by its attorneys, Hacker & Willig, and creditor Tower Investments, Inc., appearing by its attorney, Donald Boyd of Carlson Boyd & Bailey. The court having reviewed Debtor's declaration filed in support of confirmation and Debtor having testified under oath in support of the proposed Plan of Reorganization, and amendments thereto, and the he court having heard statement of counsel, and having reviewed the files herein, makes the following:

FINDINGS OF FACT

1. Debtor filed his petition for relief under Chapter 11 of the bankruptcy on November 22, 2004;

- 1 2. Debtor filed herein his Third Amended Disclosure Statement and Sixth Amended Chapter 11
2 Plan of Reorganization on June 8, 2007;
- 3
4 3. Debtor's Third Amended Disclosure Statement was approved by the above court by order
5 filed herein on June 29, 2007.
- 6
7 4. Creditor Tower Investments, Inc., as Classes 3 and 4, and FH Partners LP, as Classes 6 and 7,
8 did file objections to confirmation of the Plan. Each of Tower Investments, Inc., and FH
9 Partners, LP, have withdrawn their objections as evidenced by their approval of the proposed
10 order confirming the Plan and amendments thereto.
- 11
12 5. The contents of Debtor's Plan as modified by the confirmation order comply with the
13 requirements of 11 U.S.C. 1123.
- 14
15 6. 11 U.S.C. 1129 (a) (3): That the Plan has been proposed by Debtor in good faith and not by
16 any means forbidden by law.
- 17
18 7. 11 U.S.C. 1129 (4) The Plan provides for payment by the Debtor for services, costs and
19 expenses in connection with the case, which have been approved by, or are subject to the
20 approval of the court, as reasonable.
- 21
22 8. 11 U.S.C. 1129 (5) (B): Debtor, as proponent of the Plan, has disclosed the Debtor will
23 continue to manage and market the remaining properties of the estate, without compensation,
24 as necessary to fully perform the Plan.
- 25
9. 11 U.S.C. 1129 (7) is complied with in all respects in that each holder of an impaired claim
has accepted the Plan as evidenced by the report on balloting and withdrawal of objections to
confirmation.

1 10. As required by 11 U.S.C. 1129 (10) at least one class of impaired claims has accepted the
2 Plan. As evidenced by the Report of Balloting filed on August 27, 2007, as docket item no.
3 499, impaired classes 2 and 10 accepted the Plan.

4 11. 11 U.S.C. 1129 (8): Although impaired, each of classes 3, 4, 6 and 7 has accepted the Plan.
5 Additionally, the Plan complies with 11 U.S.C. 1129 (b) (1) in that the Plan does not
6 discriminate unfairly, and is fair and equitable as to such classes as evidenced by the terms
7 of the Plan, Third Amended Disclosure Statement and Debtor's declaration filed in support
8 of confirmation in that each of the holders of such claims retain the liens securing the claims
9 and that the lien attaches to the proceeds of the sale of the property subject to the liens.

10 12. That the Plan complies in all respects with the requirements of 11 U.S.C. 1129.
11

12 13. That all fees payable under Section 1930 of Title 28 of the United States Code have been
13 paid or are provided for.

14 14. Debtors proposed modifications to Plan do not adversely affect creditors and may be
15 approved without further notice.
16

17 Based on the foregoing Findings the court concludes as follows:
18

- 19 1. Debtor's motion to amend the Plan at confirmation should be granted, and
20
21 2. That Debtor's Plan of Reorganization, as modified at confirmation as requested by Debtor,
22 should be confirmed.
23
24
25

1 Presented by:

2 Patrick J. Morrissey

3
4 By

Patrick J. Morrissey, WSBA 3045
5 Attorney for Debtor



02/29/2008 11:40:55 AM

A handwritten signature in black ink, which appears to read "John A. Rossmeissl", is written over a horizontal line.

John A. Rossmeissl
Bankruptcy Judge